

Chapter 4
Health and Sanitation
(Amended 2-10-1953 by O-5486 N.S.)

**Article 1: Definitions — Authority and
Procedure — Permits — Fees**

§41.00 Purpose and Intent

It is the intent of the Council that this Chapter provide minimum health standards for the City of San Diego.
(“Purpose and Intent” added 4-13-1965 by O-9194 N.S.)

§41.01 Definitions and Interpretations

The following words and phrases wherever used in this Chapter shall be construed as defined in the following sections unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases.
(Amended 2-10-1953 by O-5486 N.S.)

§41.01.1 Health Department or Department of Public Health

The term HEALTH DEPARTMENT OR DEPARTMENT OF PUBLIC HEALTH means the Department of Public Health of The City of San Diego and the San Diego County Department of Health Services when the latter is enforcing the terms of this Chapter for the City of San Diego.
(Amended 3-7-1983 by O-15914 N.S.)

§41.01.2 Health Officer or Director

The term HEALTH OFFICER or DIRECTOR means the Director of Public Health and any officer or employee of the Health Department.
(Amended 5-11-1954 by O-6103 N.S.)

§41.01.3 Board of Health

The term BOARD OF HEALTH shall mean the Public Health Commission of The City of San Diego and the Board of Health of the County of San Diego when the County is performing public health functions for The City of San Diego.
(Amended 2-10-1953 by O-5486 N.S.)

§41.01.4 Establishment

ESTABLISHMENT means each individual site, premise, vehicle or vessel from which a Health Regulated Business is conducted. Individual sites and premises which are contiguous and which are under one management shall be considered a single establishment. Individual sites and premises which are in or about the grounds of a stadium, ball park, theater or other facility at which large groups of people congregate and which are under one management shall be considered a single establishment.

(Amended 4-13-1965 by O-9194 N.S.)

§41.01.5 Building

The term BUILDING means any structure built for the support, shelter, or enclosure of persons, animals or chattels; and when separated by division walls without openings, each portion so separated shall be deemed a separate building.

(Amended 2-10-1953 by O-5486 N.S.)

§41.01.6 Premises

The term PREMISES means all buildings, sheds, barns, animal pens or shelters, garages, docks, wharves, piers, and the like, whether public or private, standing alone, separately, or together with any other building herein defined, and shall include the land and its covering.

(Amended 2-10-1953 by O-5486 N.S.)

§41.01.7 Opening

The term OPENING means and refers to any opening or break in the foundation sides or walls, ground or first floors, basements and roofs, including chimney, eaves, grills, windows, ventilators, sidewalk grates and elevators, and around any pipe, wire or other installation connecting with a building or premises through which a rat might enter.

(Amended 2-10-1953 by O-5486 N.S.)

§41.01.8 Rat Stoppage, Rat Proofing

The term RAT STOPPAGE or RAT PROOFING as used herein means a form of rat proofing to prevent the ingress or egress of rats and other rodents into or from buildings or premises. It consists essentially of the closing or protection of all openings in the exterior walls, ground or first floors, basements, roofs, and foundations, with material impervious to rat gnawing, in such manner as to prevent rats from gaining entrance.

(Amended 2-10-1953 by O-5486 N.S.)

§41.01.9 Rat Harborage

The term RAT HARBORAGE means any condition which provides shelter or protection for rats or other rodents, thus favoring their multiplication and continued existence in, under, on top of, or outside of any structure of any kind, or in, under, or on top of the land itself.

(Amended 2-10-1953 by O-5486 N.S.)

§41.01.12 Dairy, Dairy Farms

The term DAIRY or DAIRY FARMS means any place or premises where one or more cows or other milk animal or animals are kept, from which a part of, or all of the milk or milk products are bottled and sold or sold and delivered to any person.

(Amended 2-10-1953 by O-5846 N.S.)

§41.01.13 Tattooing

The term TATTOOING means any method of placing designs, letters, scrolls, figures, symbols, or any other marks upon or under the skin with ink or colors, by the aid of needles or instruments.

(Amended 2-10-1953 by O-5846 N.S.)

§41.01.14 Cesspool, Septic Tank, Seepage Pit, Subsurface Disposal System

The terms CESSPOOL, SEPTIC TANK, SEEPAGE PIT, SUBSURFACE DISPOSAL SYSTEM shall mean all types of sewage disposal, other than regular sewage disposal plants and systems operated by a political subdivision.

(Amended 2-10-1953 by O-5846 N.S.)

§41.01.15 Refrigeration Plant, Locker Plant

The term REFRIGERATION PLANT, LOCKER PLANT shall mean the business of performing refrigerated storage for compensation of meat not owned by the person maintaining the refrigerating equipment, or the selling of frozen meat at wholesale or retail.

(Amended 2-10-1953 by O-5846 N.S.)

§41.01.16 Fowl and Homing or Racing or Fancy Pigeon Defined

- (a) The term FOWL shall mean chicken, turkey, goose, duck, pigeons kept for meat or egg purposes, guinea fowl, peafowl or poultry, but shall not include racing or homing pigeons or fancy pigeons.
- (b) The term "racing or homing pigeon" shall mean pedigree pigeons which are banded and kept for the purpose of racing or homing sporting events conducted by a nationally affiliated sporting association such as the American Racing Pigeon Union or the International Federation of Racing Pigeon Fanciers.
- (c) The term "fancy pigeon" shall mean pedigrees which are banded and kept for the purpose of exhibition at shows conducted by a nationally affiliated fancy pigeon association such as the National Pigeon Association or the American Pigeon Club.
- (d) The keeping of feral pigeons shall be prohibited.
(Retitled to "Fowl & Homing or Racing or Fancy Pigeons Defined" and amended 1-27-1997 by O-18378 N.S.)

§41.01.17 Vehicle and Vessel

VEHICLE and VESSEL mean any device, however, propelled, moved or drawn, on land or water, upon which or from which food or beverages are displayed, sold or offered for sale at retail, or given away to the public.
(Amended 4-13-1965 by O-9194 N.S.)

§41.01.18 Food Handlers

The term FOOD HANDLER shall mean any person engaged or employed in a business, occupation or establishment for which a permit is required by Sections 42.0101, 42.0135, and 42.0146, who handles food in such a manner that some portion of his clothing, or body, or body discharges might come in contact with such food or with the utensils used in connection therewith.
("Food Handlers" added 5-11-1954 by O-6103 N.S.)

§41.01.19 Perishable Food — Defined

As used in this Chapter, PERISHABLE FOOD means food or beverage products which support or are conducive to the rapid and progressive growth of pathogenic microorganisms.

(“ Perishable Food — Defined” added 4–13–1965 by O–9194 N.S.)

§41.01.20 Food — Defined

As used in this Chapter, FOOD includes all articles used for food, drink, liquor, confectionery, condiment, or chewing gum by man or household pets, whether such articles are simple, mixed, or compound.

(“Food — Defined” added 4–13–1965 by O–9194)

§41.02 Health Regulated Businesses — Health Permits

The occupations, businesses and activities which are the subject of Article 2 of this Chapter are designated as "Health Regulated Businesses."

(Amended 2–10–1953 by O–5846 N.S.)

§41.03 Health Permits and Grade Cards Required

No person shall conduct, manage or operate a Health Regulated Business without a current health permit issued by the San Diego County Department of Health Services. A separate health permit shall be required for each establishment. Health permits shall not be transferable from one person to another or from one location to another.

(Amended 3–7–1983 by O–15914 N.S.)

§41.03.1 Establishment Plan Review

Every applicant for a permit or license required by Article 2 of this Chapter shall, prior to obtaining a building permit, opening a new establishment, or upon remodeling an old establishment, submit to the County Health Officer a plan of the proposed establishment detailing all equipment, materials and facilities necessary to comply with the California Restaurant Act or Retail Marketing Act, whichever applies, and all applicable City and County Ordinances or regulations, accompanied by a fee as set forth in Title 6, Division 5, Section 65.107, para. (a), of the County Code to cover the cost of said review. The Health Officer shall review said plans and specifications and shall determine whether they are in accordance with the requirements of law. In the event that the plans and specifications do not comply with applicable provisions of law, amended plans and specifications may be submitted to the Health Officer for re-review and approval, and the fee for such re-review shall be as set by the County, and shall be payable to the Health Officer in advance.

(“Establishment Plan Review” added 3–7–1983 by O–15914 N.S.)

§41.04 Application for Health Permit

Every applicant for a Health Permit shall file with the Health Department a written application which shall state the name and address of the applicant, a description of the property, its location, street and number wherein and whereon it is proposed to conduct the Health Regulated Business and such other information as the Health Department may require.

At the time of filing such application, the applicant shall pay to the Clerk designated by the Health Department the fee hereinafter established.

(Amended 2-10-1953 by O-5846 N.S.)

§41.05 Issuance of Health Permits — Suspension and Revocation

Upon receipt of the application and fee, the Health Officer shall issue a Health Permit therefor if the Health Department's investigation discloses that the facts set forth in such application are true, the health conditions in and about the place wherein and whereon it is proposed to conduct the Health Regulated Business and the business or activity itself conforms to the requirements of this Code, to the rules and regulations of the Health Department and to the requirements of any codes of the State of California and any regulations issued pursuant thereto pertaining to particular activities subject to regulation therein; that the activity shall not result in a violation of such codes and regulations, otherwise such Health Permit shall be denied, or, if previously issued, shall be suspended or revoked.

("Issuance of Health Permits— Suspension and Revocation" added 2-10-1953 by O-5846 N.S.)

§41.08 Burial or Removal Permit — Fee

The fee for the burial or removal permit required by Division 7, Part 1, Chapter VI of the Health and Safety Code of the State of California, shall be one dollar (\$1.00). The fee shall not be collected under the following conditions:

- (a) Where any provision of the Health and Safety Code requires the payment of any other fee by the applicant for a burial or removal permit;
- (b) Where the permit is required for the burial or removal of a body of a member of the Armed Forces of the United States who shall have died while serving in the Armed Forces beyond the continental limits of the United States or on foreign soil;

- (c) Where the cost of burial or removal of a body has been paid or will be paid by the State of California, or any political subdivision thereof.

(Amended 2-10-1953 by O-5486 N.S.)

§41.08.1 Food Service Manager

For the purposes of this Chapter, "FOOD SERVICE MANAGER" shall mean the owner, operator, licensee, or any other person who supervises all or part of food service operations within a food service establishment and is responsible for the actions of employees under his or her charge.

(Retitled to "Food Service Manager" and amended 1-26-1981 by O-15436 N.S.; effective 6-1-1981.)

§41.08.2 Food Handler Training

No person shall act as or be engaged as a food handler unless such person: (1) possesses a valid Food Handler Training Certificate as described in subdivision (a) of this Section, or (2) is working in an establishment under the supervision of a food service manager possessing a Food Service Manager Training Certificate as described in Subdivision (b) of this Section, and possesses a Food Handler Card as described in subdivision (c) of this Section; provided, however, that a person may act as or be engaged as a food handler under the supervision of such a food service manager for up to ten (10) calendar days without a Food Handler Card.

- (a) Food Handler Training Certificate. Food Handler Training Certificates or renewals thereof shall be issued by the Health Officer, or any other qualified person or agency as may be designated by the Health Officer, to persons who, immediately preceding such issuance, have successfully completed a food sanitation training course having a duration of at least three (3) hours, taught by an instructor approved by the Health Officer, and having a course content approved by the Health Officer. In order to successfully complete said course, a person must pass a proficiency test, approved by the Health Officer, with at least a 70% grade. The course of instruction shall include at least the following subjects:

- (1) Microorganisms;
- (2) Sources of foodborne disease microorganisms;
- (3) Foodborne diseases;

- (4) The means by which food is contaminated by microorganisms and toxic substances;
- (5) Methods for protection of food to prevent foodborne illnesses;
- (6) Control of the spread of disease through food;
- (7) Personal hygiene for food handlers;
- (8) The role of utensils and equipment in the transmission of diseases; and
- (9) Dishwashing procedures.

The Health Officer's designation of persons or agencies to issue Food Handler Training Certificates and the Health Officer's approval of instructors and course contents may be withdrawn by the Health Officer at any time. The Food Handler Training Certificate shall be valid for three (3) years from the date of issuance.

- (b) Food Service Manager Training Certificate. a Food Service Manager Training Certificate shall be issued by the Health Officer, or by a person or agency authorized by the Health Officer, to any person who has (1) attended a food service manager's training course, having a duration of at least 16 hours, taught by an instructor approved by the Health Officer, and having a course content approved by the Health Officer, and (2) has passed a proficiency test, approved by the Health Officer, with at least a 70% grade. The course of instruction shall include at least the following subjects:
 - (1) Microbiology of foodborne disease;
 - (2) Methods of preventing foodborne diseases;
 - (3) Personal sanitation practices;
 - (4) Warewashing and sanitizing;
 - (5) Housekeeping and waste disposal practices;
 - (6) Food purchasing, transportation, receiving and storage;
 - (7) Food preparation and use;

- (8) Sanitation of kitchens;
- (9) Dining service;
- (10) Legal regulations of the food industry; and
- (11) Sanitation and safety management.

A Food Service Manager Training Certificate may also be issued to persons with any one of the following combinations of academic preparation and work experience, providing they pass the proficiency test specified above with at least an 85% grade:

- (A) A baccalaureate degree with at least a minor in food service occupations, environmental sanitation, biological sciences, hospitality services or related subjects and at least two years of occupational experience in said fields; or
- (B) An associate degree or 60 semester units of course work in food service occupations, environmental sanitation, biological sciences, hospitality services or related subjects and at least four (4) years of occupational experience in said fields; or
- (C) A high school diploma or its equivalent or evidence of successful completion of secondary education and at least six (6) years of occupational experience in the food service field.

A Food Service Manager Training Certificate may be issued by the Health Officer to any person possessing formal education and practical experience in the application of food sanitation principles determined by the Health Officer

to be equivalent to the formal education and practical experience to that of a registered sanitarian with ten (10) years experience in food sanitation.

The Health Officer's designation of persons or agencies to issue Food Service Manager Training Certificates and the Health Officer's approval of instructor's course contents and proficiency tests may be withdrawn by the Health Officer at any time. The Food Service Manager Training Certificate shall not expire by passage of time.

- (d) Food Handler Card. A Food Handler Card or a renewal thereof, in a form prescribed by the Health Officer, may be issued by a food service manager

possessing a Food Service Manager Training Certificate to food handlers under the manager's supervision, provided said food handlers pass a test relating to fundamental principles of sanitary food services practices, with at least a 70% grade. Said test shall be prepared by the Health Officer based on information contained in an informational booklet on sanitary food practices, which shall also be prepared by the Health Officer and which shall be distributed at cost by the Health Officer. Test records and records of the duration of the food handler's employment, including the date that the food handler began to perform food handling services, shall be maintained on the premises where the food handler is performing such services. The Food Handler card shall be valid for three (3) years from the date of issuance, or until the food handler's performance of food handling services at the establishment where the Card was issued ceases, or until the expiration of sixty (60) days from the date that the establishment ceases to have a food service manager possessing a Food Service Manager Training certificate to supervise the food handler, whichever occurs the earliest.

(Retitled to "Food Handler Training" and amended 1-26-1981 by O-15436 N.S.; effective 6-1-1981.)

§41.08.3 Employment of Food Handlers

No person who owns or operates a business, occupation or establishment for which a permit is required by this Chapter shall permit or authorize any person to act as or be engaged as a food handler in said business, occupation or establishment unless such person is legally permitted to act as or be engaged as a food handler pursuant to Section 41.08.2.

("Employment of Food Handlers" added 1-26-1981 by O-15436 N.S.; effective 6-1-1981.)

§41.09 Transmissible Disease

No person who has contracted or is afflicted with a disease or infection determined by the Director to be a danger to public health transmissible either directly or through food or drink to other persons, or who is known or suspected to be a carrier of organisms causing such disease, or who has come in contact with any person afflicted with such transmissible disease or infection, shall act or be engaged or employed as a food handler.

("Transmissible Disease" added 3-31-1976 by O-11825 N.S.)

§41.09.1 Payment of Fee for Examination

No fee shall be charged for any medical examination conducted pursuant to this

Chapter by the Department of Public Health. The City of San Diego shall not be financially responsible or liable for any fee or charge made for any test, X-ray or examination required by this Chapter that is not made by the Department of Public Health.

("Payment of Fee for Examination" added 4-13-1965 by O-9194 N.S.)

§41.11 Qualification Examination

Where this Chapter requires an examination into the qualifications of one applying for a Health Permit, the examination shall be conducted by the Health Officer. The applicant shall pay to the clerk designated by the Health Officer, an examination fee of ten dollars (\$10.00). In the event the applicant is unsuccessful in such examination, no part of such fee shall be returned to the applicant.

In any case where the applicant has failed for a period of thirty (30) days to apply for the examination and pay the examination fee required by this Section, there shall be added to and collected with the examination fee a penalty equal to ten percent (10%) of the fee or \$1.00, whichever is the greater; and for each additional month or fraction of a month after the expiration of said 30-day period that the applicant fails to make such application and pay said fee, there shall be added to and collected with the examination fee an additional penalty equal to ten percent (10%) of the fee; provided, however, in no event shall the total penalty added to the examination fee pursuant to this section be more than sixty percent (60%) of the examination fee. The imposition of or payment of the penalty imposed by this section shall not prevent the imposition of any other penalty prescribed by this Chapter or prosecution for violation of this Chapter.

(Amended 12-29-1955 by O-6806 N.S.)

§41.12 Director May Require Examination

The Director of Public Health may require the holder of a Food Handler Authorization Card to submit to medical examination when there is reason to believe that such person has contracted a transmissible disease.

(Retitled to "Director May Require Examination" and amended 3-31-1976 by O-11825 N.S.)

§41.13 Contraction of Transmissible Disease Subsequent to Examination; Suspension or Revocation of Card

The Director of Public Health may suspend or revoke the Food Handler Authorization Card of any person suspected of having contracted a transmissible disease. The Director shall reinstate the registration card upon presentation of satisfactory proof

that the person suspected is free of the transmissible disease. The Director may require that any suspended or revoked Authorization to act as a food handler be surrendered to the Director.

(Amended 3-31-1976 by O-11825 N.S.)

§41.16 List of Employees

Where the provisions of this chapter so provide, all owners, proprietors, or managers shall keep accurate and complete lists of all persons employed, indicating sex and duties performed by each employee, and shall furnish a copy of the same to the Health Officer, which copy must be kept constantly revised by said owner, proprietor or manager.

(“List of Employees” added 2-10-1953 by O-5486 N.S.)

§41.16.1 Employment of Food Handlers

No person who owns or operates a business, occupation or establishment for which a permit is required by Division 1, Article 2 of this chapter shall employ, permit or authorize any person to act or be engaged as a food handler in said business, occupation or establishment unless such person has an authorization to act as a food handler as provided in Section 41.08.1 unless such person is exempt from the requirement to hold and carry such authorization pursuant to Section 41.08.1.

(“Employment of Food Handlers” added 3-31-1976 by O-11825 N.S.)

§41.31 Rules and Regulations — Authority

The Health Department shall provide such rules and regulations for any subject regulated in this chapter as shall be necessary to prevent such from becoming a nuisance or in any way affecting the peace, health or safety of residents of The City of San Diego.

(“Rules and Regulations — Authority” renumbered from Sec. 41.12 on 5-11-1954 by O-6103 N.S.)

§41.32 Enforcement Officer — Authority — Inspection

The Health Officer shall enforce the provisions of this Chapter and inspect the activities regulated. No person shall resist, obstruct or delay the Health Officer in the performance of his duties.

When inspection of vending machines by the Health Officer is required under the provisions of this Chapter, the owner, operator or manager thereof, or his duly appointed agent, shall be present at the time and place specified by the Health Officer

for such inspection.

(Amended 4-13-1965 by O-9194 N.S.)

§41.33 Nuisance — Powers of Health Officer

Any establishment or activity which is found by the Health Officer to be unsanitary or a menace to the public health or which is a violation of this Chapter, is declared to be a public nuisance. The Health Officer is authorized and empowered to take such action as is provided in the laws of the State of California and in the San Diego Municipal Code. In the event that immediate and emergency action is necessary to preserve the public health or safety, the Health Officer is authorized and empowered to summarily abate such nuisance by any reasonable means.

(Amended 9-1-1959 by O-8164 N.S.)

§41.34 Permit and Grade Card to be Posted

Every health permit and/or alphabetical grade card issued shall be kept posted in a conspicuous place in the establishment for which the permit is issued. The Health Officer shall prescribe the location in or on the establishment where such permit shall be kept posted. Alphabetical grade cards shall be posted in the front window of the establishment so as to be clearly visible to patrons entering the establishment, or in a display case mounted on the outside of the front door, or in a display case mounted on the outside front wall of the establishment within five (5) feet of the front door, or in some other location clearly visible to patrons entering the establishment which has been approved by the Health Officer. The alphabetical grade card shall be protected from damage by weather conditions and shall not be defaced, marred, or camouflaged or hidden so as to prevent the general public from observing it.

(Retitled to "Permit and Grade Card to be Posted" and amended 1-26-1981 by O-15436 N.S.)

§41.35 Communicable Disease Control

No person who has contracted or is afflicted with a communicable disease transmissible either directly or through food or drink to other persons, or who is known or suspected to be a carrier of organisms causing communicable disease, or who is suffering from an infection transmissible to other persons, or who has come in contact with such persons, shall work in any Health Regulated Business.

(Amended 4-13-1965 by O-9194 N.S.)

§41.36 Vermin Infestation

Establishments infested with rodents, roaches, ants, or other vermin or pests are declared to be a public nuisance. When it appears to the Health Officer that a public nuisance exists, written notice to abate same shall be sent by certified mail to the person owning, operating or managing the establishment. Failure to comply with such notice within thirty (30) days from the date of mailing is a misdemeanor and the Health Officer shall close such establishments until abatement of the nuisance.

(“Vermin Infestation” added 4-13-1965 by O-9194 N.S.)

§41.37 Seizure and Condemnation of Foods

The Health Officer shall inspect all establishments and seize or destroy any food or food products appearing to be unfit for human or animal consumption.

(“Seizure and Condemnation of Foods” added 4-13-1965 by O-9194 N.S.)